

REMARKS

Support for the ninety-five to one-thousand and thirteen target gene sequences of interest, PCR primer pairs, and oligonucleotide probes, as well as the complementarity between the oligonucleotide probes and amplified target gene sequences, can be found for example in paragraphs [0066] and [0113] of the published US Patent Application.

Support of the 30-45 picomolar concentration of each primer can be found for example in paragraph [0066] of the published US Patent Application.

Support for newly added claim 44 can be found, for example, in paragraph [0070] of the published US Patent Application.

No new matter is introduced by these amendments.

For ease of reading, Applicants below number the issues discussed in a manner parallel to the Examiner's Action.

Reconsideration and allowance is respectfully requested.

1. Applicants thank the Examiner for acknowledging the Election.
2. The application number and filing date of the appropriate priority document has been cited on page 2, line 5.
3. The embedded hyperlinks have been removed, pursuant to MPEP 608.01.
4. Trademarks used in the application have been identified, and capitalized.
5. and 6. Rejection of Claims 22 and 23 under 35 U.S.C. 112, 2<sup>nd</sup> paragraph

The Examiner rejected Claims 22 and 23 under 112, 2<sup>nd</sup> paragraph, indicating that the claims "as recited fail to specify percentage of what". Without acquiescing to this rejection, and solely for the purposes of expediting prosecution, Applicants have amended Claims 22 and 23. For example, in Claim 23, the amended claim language provides that the "observed efficiency of amplification is greater than 90%". One of skill in the art will readily appreciate that having an amplification efficiency greater than some percentage, for example 90 percent, means that the amount of amplification product in a multiplexed reaction is greater than 90 percent of the amount of amplification in a single-plex reaction

(i.e.-100 percent) using otherwise similar reaction conditions. Support for this can be found for example in paragraph [0059] of the published US Patent Application.

7. Rejection of Claims 31 and 42 due to use of Trademark

Without acquiescing to this rejection, and solely for the purposes of expediting prosecution, Applicants cancel Claims 31 and 42.

8. Statement on Interpretation of Claims 22 and 23

In view of Applicants amendments and arguments regarding Claims 22 and 23, this issue is believed moot.

9. and 10. Rejection of Claims 1-2, 4-9, and 43 under 35 U.S.C. 102(b)

In order for a reference to anticipate a claimed invention, the reference must teach every element of that claimed invention. However, Applicants' claimed invention, now amended, provides for the amplification of ninety-five to one-thousand and thirteen cDNA molecules, and provides that the concentration of the primers for amplifying these cDNA molecules be 30-45 picomolar. These elements are not taught in the cited Heid reference. Thus, rejection under 102(b) is inappropriate. Reconsideration is respectfully requested.

Applicants note that certain of the Examiner's arguments are not addressed since they are believed moot in light of Applicants' amended independent claims. By not addressing these arguments, Applicants in no way acquiesce to them.

11. Rejection of Claims 1-4, 19-28, 32-35, and 37-39 under 35 U.S.C. 102(b)

Again, in order for a reference to anticipate a claimed invention, the reference must teach every element of that claimed invention. However, Applicants' claimed invention, now amended, provides for the amplification of ninety-five to one-thousand and thirteen cDNA molecules, and provides that the concentration of the primers for amplifying these cDNA molecules be 30-45 picomolar. These elements are not taught in the cited

Dolganov reference. Thus, rejection under 102(b) is inappropriate. Reconsideration is respectfully requested.

Applicants note that certain of the Examiner's arguments are not addressed since they are believed moot in light of Applicants' amended independent claims. By not addressing these arguments, Applicants in no way acquiesce to them.

12., 13. and 14. Rejection of Claims 29-31, and 40-42 under 35 U.S.C. 103

In order for a combination of references to render a claimed invention obvious, the combined references must teach every element of that claimed invention. However, Applicants claimed invention, now amended, provides for the amplification of ninety-five to one-thousand and thirteen cDNA molecules, and provides that the concentration of the primers for amplifying these cDNA molecules be 30-45 picomolar. These elements are not taught in the cited Dolganov reference, they are not taught in the cited Heid reference, and they are not taught in the combination of Dolganov and Heid. Thus, rejection under 103 is inappropriate. Reconsideration is respectfully requested.

Applicants note that certain of the Examiner's arguments are not addressed since they are believed moot in light of Applicants' amended independent claims. By not addressing these arguments, Applicants in no way acquiesce to them.

Conclusion

Reconsideration and allowance is respectfully requested.

**PETITION FOR EXTENSION OF TIME AND FEE AUTHORIZATION**

Applicants petition for a 3-month Extension of Time. The Commissioner is hereby authorized to charge the Extension of Time fee of \$1,020.00 and any other fees required to Applied Biosystems Deposit Account No. 01-2213 (**Order No. 4944**)

Respectfully submitted,

  
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